

Message Text

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ORIGIN STR-07

INFO OCT-01 EA-10 IO-13 ISO-00 AGRE-00 LAB-04 COME-00
TRSE-00 CEA-01 CIAE-00 DODE-00 EB-08 FRB-03 H-01
INR-10 INT-05 L-03 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 /124 R

DRAFTED BY STR:SCOFFIELD:CS
APPROVED BY STR:AWOLFF
STATE:TOHERREN
USDA:FGEERKEN(SUBS)
STATE:JCUNNINGHAM
LABOR:JHESTER(SUBS)
COMMERCE:JDAVIS
TREAS:JMURPHY(SUBS)
COMMERCE:JBRYON(SUBS)
STR:WBARREDA

-----130420 210137Z /75

P 202330Z JUL 78
FM SECSTATE WASHDC
TO USMISSION GENEVA PRIORITY
AMEMBASSY TOKYO

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MTN DELEGATION GENEVA /USMISSION GENEVA

E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: US STATEMENT TO THE GATT COUNCIL ON JAPANESE
IMPORT RESTRICTIONS ON LEATHER

1. UNDER THE SUBJECT AGENDA ITEM, THE U.S. REPRESENTATIVE
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SHOULD MAKE THE FOLLOWING STATEMENT:

QUOTE. MR. CHAIRMAN, THE GOVERNMENT OF JAPAN, IN
THE POST WORLD WAR II PERIOD, IMPOSED A SYSTEM OF
QUANTITATIVE RESTRICTIONS (QRS) ON THE IMPORTATION OF
CERTAIN PRODUCTS, AMONG WHICH WAS LEATHER. THESE RESTRICTIONS
WERE JUSTIFIED BY THE JAPANESE UNDER THE PROVISIONS OF

ARTICLE XII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT) WHICH AUTHORIZES CONTRACTING PARTIES TO IMPOSE QUANTITATIVE RESTRAINTS WHEN NECESSARY TO SAFEGUARD ITS EXTERNAL FINANCIAL POSITION AND ITS BALANCE-OF-PAYMENTS. THIS BALANCE-OF-PAYMENTS JUSTIFICATION CONTINUED UNTIL 1963. AT THAT TIME, THE INTERNATIONAL MONETARY FUND MADE A FINDING THAT JAPAN WAS NO LONGER JUSTIFIED IN MAINTAINING RESTRAINTS FOR BALANCE-OF-PAYMENTS REASONS. THE UNJUSTIFIABLE LEATHER QUOTAS NONETHELESS REMAIN CURRENTLY IN EFFECT, CONSISTING, APPARENTLY, OF BOTH A GLOBAL QUOTA AND A SPECIFIC QUOTA ON IMPORTS FROM THE UNITED STATES.

THE TARIFFS ON THREE OF THE SIX JAPANESE LEATHER ITEMS AFFECTED ARE BOUND UNDER ARTICLE II OF THE GATT.

THE RESTRICTIVE EFFECTS OF THE QUOTAS ARE EXACERBATED BY ADMINISTRATIVE OBSTACLES IMPOSED BY THE GOJ WHICH RENDER IT VIRTUALLY IMPOSSIBLE FOR THE U.S. LEATHER PRODUCERS TO FILL EVEN THE SMALL QUOTAS THEY ARE SUPPOSEDLY AUTHORIZED TO FILL. THESE OBSTACLES STEM PRIMARILY FROM THE INABILITY OF POTENTIAL U.S. EXPORTERS TO GAIN THE INFORMATION NECESSARY TO PLAN, COMMENCE, OR COMPLETE AN EXPORT TRANSACTION. IN THIS REGARD, THE GOVERNMENT OF JAPAN HAS REFUSED, FOLLOWING SPECIFIC U.S. REQUESTS, TO GIVE ANY INDICATION OF THE SPECIFIC AMOUNT OF THE U.S. OR THE GLOBAL QUOTA. IN ADDITION, DIFFICULTIES HAVE BEEN ENCOUNTERED IN IDENTIFYING LIMITED OFFICIAL USE

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ING THE JAPANESE HOLDERS OF QUOTA RIGHTS AND, EVEN WHEN IDENTIFIED, THE HOLDERS ARE NOT ALWAYS WILLING TO EXERCISE THEIR QUOTA RIGHTS.

MR. CHAIRMAN, THE U.S. GOVERNMENT IS OF THE OPINION THAT THE OVERALL SYSTEM OF RESTRICTIONS REGARDING IMPORTATION OF LEATHER INTO JAPAN CONSTITUTES A NULLIFICATION OR IMPAIRMENT OF BENEFITS ACCRUING TO THE U.S., WITHIN THE MEANING OF ARTICLE XXIII OF THE GATT, BY PREVENTING THE IMPORTATION OF LEATHER INTO JAPAN, THEREBY DAMAGING THE U.S. LEATHER INDUSTRY. THIS NULLIFICATION OR IMPAIRMENT RESULTS FROM JAPANESE GOVERNMENT VIOLATIONS OF THE FOLLOWING SPECIFIC GATT PROVISIONS: (1) THE ARTICLE XI GENERAL PROHIBITION AGAINST THE IMPOSITION OF QUANTITATIVE RESTRICTIONS, (2) THE ARTICLE XIII OBLIGATION TO PUBLISH ALL IMPORT RESTRICTIONS AND ARTICLE XIII REQUIREMENT THAT ADMINISTRATION OF RESTRICTIONS BE REASONABLE, AND (3) THE RIGHT TO ENJOY THE BENEFITS OF CERTAIN TARIFF CONCESSIONS, BOUND UNDER ARTICLE II OF THE GATT.

GIVEN THE EXTENSIVE CONSULTATIONS WE HAVE HAD WITH THE GOVERNMENT OF JAPAN (THE MOST RECENT OF WHICH WERE CON-

DUCTED IN MAY AND JUNE PURSUANT TO ARTICLE XXIII:L),
GIVEN THE FACT THERE HAS BEEN NO SATISFACTORY RESOLUTION
TO THIS PROBLEM, AND THE FACT THAT A SATISFACTORY
BILATERAL RESOLUTION TO THIS PROBLEM APPEARS, AT THIS
POINT, TO BE HIGHLY IMPROBABLE, AND GIVEN THE SEVERE
AND EXTENDED ADVERSE IMPACT ON THE UNITED STATES
LEATHER INDUSTRY CAUSED BY THESE UNJUSTIFIED RESTRICTIONS,
THE UNITED STATES REQUESTS:

IMMEDIATE ESTABLISHMENT OF A PANEL TO STUDY
THE ISSUE,

-- AN EXPEDITIOUS FINDING BY THE CONTRACTING PARTIES
UNDER ARTICLE XXIII:2) THAT THE SYSTEM OF IMPORT
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RESTRICTIONS ON LEATHER MAINTAINED BY THE
GOVERNMENT OF JAPAN IS INCONSISTENT WITH JAPAN'S
OBLIGATIONS UNDER THE GENERAL AGREEMENT AND
AND CONSTITUTE A NULLIFICATION OR IMPAIRMENT OF
U.S. RIGHTS UNDER THE GENERAL AGREEMENT,

-- A RECOMMENDATION BY THE CONTRACTING PARTIES THAT
THE GOVERNMENT OF JAPAN REMOVE THE ILLEGAL
RESTRICTIONS ON IMPORTS OF LEATHER FROM THE U.S.

-- IF THE RESTRICTIONS ARE NOT REMOVED, THAT THE
GOVERNMENT OF THE UNITED STATES BE AUTHORIZED
TO SUSPEND THE APPLICATION TO JAPAN OF CON-
CESSIONS OR OTHER OBLIGATIONS UNDER THE GENERAL
AGREEMENT TO THE EXTENT APPROPRIATE TO REDRESS
THE DAMAGE CAUSED TO THE UNITED STATES BY THESE
UNJUSTIFIED IMPORT RESTRICTIONS. END QUOTE.

3. SINCE THE U.S. CONSIDERS THE PANEL TO BE A "RIGHT",
WE WOULD NOT AGREE THAT WE NEED TO "WORK OUT" THE TERMS
OF REFERENCE WITH THE JAPANESE IN ADVANCE. CERTAINLY,
THEY SHOULD BE GIVEN A COPY OF OUR STATEMENT BEFORE
THE COUNCIL MEETING, BUT WE BELIEVE IT WOULD BE AN UNFORTUN-
ATE PRECEDENT TO ALLOW THE COUNTRY AGAINST WHOM THE
COMPLAINT IS BEING MADE ANY IMPLICIT RIGHT TO NEGOTIATE
ON TERMS OF REFERENCE --WHICH SHOULD SIMPLY FOLLOW FROM
THE U.S. COMPLAINT. IN THE PAST, A SIMILAR ACTION LED
TO PROBLEMS IN FORMING PANELS TO HEAR THE U.S. COMPLAINTS
AGAINST THE EC ON MINIMUM IMPORT PRICES AND NON FAT DRY
MILK - SEE SPECIFICALLY GATT DOC. C/M/LL5, PAGES 2-5,
NOTES OF JULY L5, L976 GATT COUNCIL MEETING.

4. IN THE PRESENT CASE, THE TERMS OF REFERENCE SHOULD
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READ APPROXIMATELY AS FOLLOWS:

-- TO EXAMINE THE U.S. COMPLAINT THAT JAPAN MAINTAINS QUANTITATIVE RESTRICTIONS ON CERTAIN LEATHER WHICH ARE INCONSISTENT WITH JAPAN'S OBLIGATIONS UNDER THE GENERAL AGREEMENT AND CONSTITUTE A NULLIFICATION OR IMPAIRMENT OF U.S. RIGHTS UNDER THE GENERAL AGREEMENT, AND TO MAKE SUCH FINDINGS WITH RESPECT TO THE COMPLAINT OF THE U.S. AS MAY BE APPROPRIATE TO ASSIST THE CP'S IN MAKING THE RULINGS AND RECOMMENDATIONS PROVIDED FOR IN PARAGRAPH 2 OF ARTICLE XXIII.--

5. IF MISSION LEARNS THAT JAPAN WILL OBJECT TO THIS FORMULATION CIRCUMSTANCES SHOULD BE REPORTED BY IMMEDIATE CABLE. WE DO NOT WANT TO PLACE OURSELVES IN POSITION OF NEGOTIATING TERMS OF REFERENCE WITH DEFENDANT CP. IN CASE OF JAPANESE OBJECTION, THEIR CONCERNS SHOULD BE REFERRED TO COUNCIL.

6. PLEASE ALSO ADVISE JAPANESE BEFORE MEETING THAT U.S WILL REQUEST CP'S TO AUTHORIZE SUSPENSION OF CONCESSIONS OR OTHER OBLIGATIONS, SHOULD IT BE DETERMINED THAT LEATHER RESTRICTIONS ARE INCONSISTENT WITH JAPAN'S GATT OBLIGATIONS AND SHOULD THOSE RESTRICTIONS NOT BE REMOVED WITHIN A SHORT PERIOD TIME. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LEATHER, IMPORT CONTROLS, TARIFFS, GOVERNMENT REACTIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 20 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE184344
Document Source: CORE
Document Unique ID: 00
Drafter: SCOFFIELD:CS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780299-0341
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780736/aaaabelg.tel
Line Count: 200
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 9e4fa66f-c288-dd11-92da-001cc4696bcc
Office: ORIGIN STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1934556
Secure: OPEN
Status: NATIVE
Subject: US STATEMENT TO THE GATT COUNCIL ON JAPANESE IMPORT RESTRICTIONS ON LEATHER
TAGS: ETRD, JA, US, GATT
To: GENEVA TOKYO MULTIPLE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/9e4fa66f-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014